IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Bail Appl..No. 6996 of 2007()

Cr.No.98/07 of NEDUMANGAD EXCISE RANGE

: PETITIONER/ACCUSED

BHAGEERATHAN, BHAJANLAL MANDIRAM,
PANAYCODE, THOLICODE.

BY ADV. SRI.A.RAJASIMHAN

RESPONDENTS: COMPLAINANT

EXCISE INSPECTOR, NEDUMANGAD EXCISE
RANGE REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6996 of 2007

Dated this the 19th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to be in possession of 10 litres of arrack on 10/9/2007. On seeing the detecting excise party, he allegedly took to his heels. The contemporaneous seizure mahazer and the occurrence report reveal the identity and complicity of the petitioner. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner prays that the petitioner may be granted anticipatory bail. The learned Public Prosecutor opposes the application and submits that the petitioner must resort to the ordinary and normal course of appearing before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal course.

3. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied

that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

4. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007